



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II
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NEW YORK, NEW YORK 10007-1866

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July 24, 2017

BY ELECTRONIC MAIL

Robert Law, Ph.D.
CPG Project Coordinator
de maximis, inc.
186 Center Street, Suite 290
Clinton, New Jersey 08809

Re: Lower Passaic River Study Area (LPRSA) – Cooperating Parties Group (CPG) Upper 9-mile Plan

Dear Dr. Law:

Thank you and your team for providing the U.S. Environmental Protection Agency (EPA) Region 2 with the CPG's July 14, 2017 proposed approach to select an interim remedial action in the upper 9 miles of the LPRSA. We agree that there are benefits to accelerating the completion of the RI/FS and expediting the remedial design and remedial action for the upper 9 miles of the LPRSA.

Our review of the CPG's proposal generated a number of questions that we would like to further discuss with you and your team. While we are continuing our review, some questions, in addition to some initial feedback, are provided below to help you prepare for our next meeting/discussion and broken out by the sections provided in your July 14, 2017 proposal.

Section I – 17-mile Remedial Investigation (RI) Report – July to December 2017

- Rather than deferring the finalization of the Baseline Ecological Risk Assessment (BERA) until after the proposed interim action Record of Decision (ROD 1), we would like to focus on expediting completion of the BERA. Excluding ecological risk considerations may not be appropriate for selecting an expedited remedy, and EPA considers the BERA a valuable tool to identify the basis for an ecological-based RAO in the proposed ROD 1. Given that EPA's comments on the draft BERA were provided to the CPG on June 30, 2017 and considering the common goal of expediting the RI/FS process, could the CPG submit the revised BERA before the December 2017 target for submitting the revised RI Report?
- It is unclear at this time whether EPA will be able to approve the bioaccumulation model for use in the FS without submitting it to peer review.

Section II – Upper 9-mile ROD Feasibility Study (FS) – 2017 to 2018

- Does the proposed schedule allow time for CSTAG and NRRB review before the Proposed Plan is issued?
- The CPG proposes Remedial Action Levels (RALs) of 300 part per trillion for 2,3,7,8-TCDD and 1 part per million for Total PCBs, which appear high in consideration of the remedial goals in the lower 8.3-mile ROD. Since this is a newly-introduced and key component of the proposal, we request a written statement of the technical basis supporting the proposed RALs be provided to EPA in advance of the meeting proposed below.
- Does the CPG propose to evaluate capping and monitoring as part of one alternative, or incorporate capping and monitoring in more than one set of alternatives that also include targeted removal (dredging) upriver? Also, EPA would be interested to hear how CPG defines “actively remediate”.
- As we have discussed previously, remedy performance will have to be evaluated based on sediment concentrations, in addition to tissue and surface water concentrations.
- On what basis will the River Mile 10.9 Removal be evaluated as a final action?

Section IV – EPA to issue Proposed Plan/ROD 1/Administrative Order On Consent – 2019

- It is EPA’s understanding that projection runs will have been conducted as part of the remedial alternatives evaluation described in Section II.F.1. We would like to understand the purpose of the projections discussed in subsection D.
- Consistent with EPA’s adaptive management strategy, a monitoring approach would need to be included in the FS for ROD 1. Understanding the monitoring program that will be used to evaluate remedy performance, and identifying key indicators of remedy performance and criteria values that would trigger further action, all would be necessary to support the selection of an interim remedy.

In addition to EPA’s technical questions, the July 14 proposal raised questions related to the CPG’s intention with respect to implementation of the suggested targeted remedy, more appropriately addressed by counsel. Assistant Regional Counsel Frances Zizila will be in touch with Bill Hyatt to discuss that issue.

EPA would appreciate the opportunity to meet with the CPG to discuss these questions in-person. Please contact me or Jennifer LaPoma, Remedial Project Manager for 17-mile RI/FS to schedule such a meeting at your earliest convenience. In keeping with the guiding principle that completing the RI/FS as soon as possible is most beneficial to the LPRSA, EPA expects that the CPG will continue to move forward with all aspects of the RI/FS as currently set forth in the 2007 Administrative Settlement Agreement while we have discussions on the CPG’s proposal.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Sivak". The signature is fluid and cursive, with the first name "Michael" and last name "Sivak" clearly distinguishable.

Michael Sivak, Chief
Passaic, Hackensack and Newark Bay Remediation Branch

cc: Eric Wilson, EPA
Sarah Flanagan, EPA
Frances Zizila, EPA
William J. Hyatt, CPG

